

**BEFORE THE MINNESOTA  
EMERGENCY MEDICAL SERVICES REGULATORY BOARD**

In the Matter of  
James Rather, EMT-P  
Certificate Number: 258438

**FINDINGS OF FACT,  
CONCLUSIONS,  
AND FINAL ORDER**

On January 12, 2009, the Complaint Review Panel ("Panel") of the Minnesota Emergency Medical Services Regulatory Board ("Board") initiated the above-entitled proceeding against James Rather, EMT-P ("Respondent"), by service of a Notice of Petition and Petition to Suspend Certification.

The matter came on for consideration by the Board pursuant to Minnesota Statutes section 144E.28, subdivision 5(b) (2008), at a regularly scheduled meeting on March 19, 2009, convened in Conference Room A (fourth floor), University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota 55414.

The following Board members were present: James Rieber, Chair; Lisa Consie; Kathleen Haney; Laurie Hill; Robert Jensen; Paul Satterlee, M.D.; Marlys Tanner; and Mari Thomas, M.D. Karen B. Andrews, Assistant Attorney General, appeared and presented oral argument on behalf of the Panel. Respondent was not present or otherwise represented at the meeting. Nathan W. Hart, Assistant Attorney General, was present as legal advisor to the Board. As members of the Panel, Dawn Bidwell, Brenda Brown, Paula Fink Kochen, Paul Stelter, and Kevin Miller did not participate in deliberations or vote in the matter.

Based on the record and the proceedings herein, the Board makes the following:

## **FINDINGS OF FACT**

1. On September 27, 2007, Respondent's employment as a paramedic for an ambulance service in Fairmont, Minnesota, was terminated for the following reasons:

a. Respondent purchased a television and charged \$649.00 to the ambulance service. Respondent admitted that this television was set up in his home.

b. Respondent admitted purchasing laundry detergent, bleach, dryer sheets, trash bags, phones, stamps, and DVDs for his personal use with the ambulance service's funds.

c. Respondent failed to work approximately 30 of his scheduled shifts but did not take PTO for any of the missed shifts. Respondent also claimed 600 miles for mileage reimbursement without being able to account for his whereabouts.

2. As a result of the conduct described in paragraph 1, above, Respondent was charged with two felony counts of theft by swindle and two felony counts of theft.

3. On October 30, 2008, Respondent was served with a Notice of Conference, scheduling a conference with the Panel on November 17, 2008, to discuss the allegations contained therein. Respondent failed to attend the conference or notify the Board he would be unable to attend.

Based upon the foregoing Findings of Fact, the Board makes the following:

## **CONCLUSIONS**

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes sections 144E.28 and 144E.30 (2008).

2. Respondent was given timely and proper notice of the January 15, 2009, hearing before the Board and of his right under Minnesota Statutes section 144E.28, subdivision 5(b), to

request a contested case hearing to be conducted in accordance with Minnesota Statutes chapter 14.

3. The Panel has complied with all relevant substantive and procedural requirements of statute and rule.

4. The Panel has proven by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 144E.28, subdivision 5(a)(5), because he has “engage[d] in unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public or demonstrating a willful or careless disregard for the health, welfare, or safety of the public.”

5. The Panel has proven by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 144E.30, subdivision 3 by failing to cooperate with the Board’s investigation.

6. As a result of the violations set forth above and Respondent’s failure to request a contested case hearing within 30 days of receipt of notice of his right to do so or at any time, the Board has the authority without further proceedings to take disciplinary action against Respondent’s EMT-P certification. Minn. Stat. §§ 144E.28, subds. 4 and 5, 144E.30 (2008).

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following:

### **ORDER**

1. Respondent’s EMT-P certificate is **SUSPENDED**, effective immediately. At no time subsequent to the date of this Order shall Respondent engage in any act in Minnesota which constitutes practice as an emergency medical technician-paramedic as defined in Minnesota Statutes sections 144E.001 and 144E.28, nor shall he in any manner represent or hold himself out as being authorized to so practice.

2. Not later than 10 (ten) days from the date of this Order, Respondent shall surrender and cause the Board to receive his current EMT-P certificate card.

3. Respondent may apply to the Board for reinstatement of his certification as an EMT-P not earlier than 12 (twelve) months from the date of this Order. Any such application shall be accompanied by evidence of compliance with all applicable continuing education or training requirements under Minnesota Statutes section 144E.28, subdivisions 7 and 8 (2008).

4. Respondent shall appear before the Panel to review any application for reinstatement submitted pursuant to paragraph 3, above. The burden of proof shall be on Respondent to demonstrate that he is able to provide emergency medical services in a fit and competent manner without risk of harm to the public. The Board reserves the right to approve an application for reinstatement only upon the imposition of conditions and limitations which the Board deems necessary to ensure public protection.

5. This Order is a public document.

The foregoing Findings of Fact, Conclusions, and Order constitute the Decision of the Board in this matter.

Dated: 4/2, 2009

MINNESOTA EMERGENCY MEDICAL  
SERVICES REGULATORY BOARD

By: 

JAMES RIEBER, CHAIR

AG: #2348534-v1